

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF VENTURA
VENTURA DIVISION

TENTATIVE RULINGS

EVENT DATE: 08/12/2019 EVENT TIME: 08:20:00 AM DEPT.: 20
JUDICIAL OFFICER: Matthew P. Guasco

CASE NUM: 56-2018-00512761-CU-PL-VTA
CASE TITLE: VENEROSO VS. C R BARD INC

CASE CATEGORY: Civil - Unlimited CASE TYPE: Product Liability

EVENT TYPE: Motion for Summary Judgment - for Defendant The Regents of the University of California
CAUSAL DOCUMENT/DATE FILED: Motion for Summary Judgment, 05/29/2019

Notice Regarding Courtroom 20 Law & Motion Procedures: The law and motion calendar in Courtroom 20 before Judge Matthew P. Guasco starts promptly at 8:30 a.m. Ex parte applications will be heard at the same time as matters on the law and motion calendar. Parties appearing by Court Call must check in with the Judicial Assistant by 8:20 a.m. No notice of intent to appear is required. Parties wishing to submit on the tentative decision must so notify the Court by e-mail at Courtroom20@ventura.courts.ca.gov or by fax to Judge Guasco's secretary, Claudine Nesbitt at (805) 477-5892. **Do not call in lieu of sending an e-mail or fax.** If a party submits on the tentative decision without appearing, but another party appears, the hearing will be conducted in the absence of the non-appearing party. Effective February 13, 2018, all cases assigned to Courtroom 20 are assigned for all purposes to Judge Guasco.

The following is the Court's tentative decision concerning the motion of defendant, The Regents of the University of California ("Regents"), for summary judgment as to the Complaint of plaintiffs, Virginia Veneroso, Teresa Osso, Nicholas Veneroso, and Christina McCann ("plaintiffs"):

For the following reasons, the Court GRANTS the motion of Regents for summary judgment:

- (1) Plaintiffs filed a notice of non-opposition to the motion.
- (2) Accordingly, for the purposes of this motion only, the Court finds Undisputed Material Facts ("UMF"s) 1-32 are established and undisputed.
- (3) Summary judgment procedure is well settled: "A party may move for summary judgment in an action or proceeding if it is contended that the action has no merit or that there is no defense to the action or proceeding." (Code of Civ. Proc., § 437c, subd. (a).) A party may also move for "summary adjudication as to one or more causes of action within an action, one or more affirmative defenses, one or more claims for damages, or one or more issues of duty. . . ." (Code of Civ. Proc., § 437c, subd. (f)(1).) "The court must grant the motion if all the papers submitted show that there is no triable issue as to any material fact [citation omitted]-that is, there is no issue requiring a trial as to any fact that is necessary under the pleadings and, ultimately, the law [citations omitted]-and that the moving party is entitled to a judgment as a matter of law [citation omitted]." (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 843, 107 Cal.Rptr.2d 841, 24 P.3d 493, internal quotation marks omitted ("*Aguilar*").) "The purpose of the law of summary judgment is to provide courts with a mechanism to cut through the parties' pleadings in order to determine whether, despite their allegations, trial is in fact necessary to resolve their dispute." (*Id.*, 25 Cal.4th at p. 843, 107 Cal.Rptr.2d 841, 24 P.3d 493.) The court must construe the evidentiary showing, and all reasonable inferences therefrom, in the light most favorable to the opposing party. (*Id.*, 25 Cal.4th at p. 844, 107 Cal.Rptr.2d 841, 24 P.3d 493.)

The Court follows a three part test in ruling on the motion:

(a) "First, . . . the party moving for summary judgment bears the burden of persuasion that there is no triable issue of material fact and that he is entitled to judgment as a matter of law." (*Id.*, 25 Cal.4th at p. 850, 107 Cal.Rptr.2d 841, 24 P.3d 493.)

(b) "Second, . . . the party moving for summary judgment bears an initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact; if he carries his burden of production, he causes a shift, and the opposing party is then subjected to a burden of production of his own to make a prima facie showing of the existence of a triable issue of material fact."(*Ibid.*)

(c) "Third, . . . how the parties moving for and opposing, summary judgment may each carry their burden of persuasion and/or production depends on which would bear what burden of proof at trial." (*Id.*, 25 Cal.4th at p. 851, 107 Cal.Rptr.2d 841, 24 P.3d 493.)

(4) Here, for the purposes of this motion only, it is undisputed that Regents did not breach the standard of care. Thus, the motion establishes that an essential element of the action against Regents cannot be proven. Regents are entitled to judgment on the Complaint as a matter of law.

(5) For these reasons, the Court GRANTS summary judgment in favor of Regents and against plaintiffs.

Counsel for Regents shall serve and file a notice of ruling and proposed order consistent with the above and in conformity with the Code of Civil Procedure and the California Rules of Court. A copy of this tentative decision (if adopted as the Court's ruling) may be attached to any such notice or proposed order in lieu of quoting same verbatim in the body of the document.